UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/556,303	04/24/2000	Joann Ruvolo	AM9-99-0134	7178

26381	7590	10/21/2004	

LACASSE & ASSOCIATES, LLC
1725 DUKE STREET
SUITE 650
ALEXANDRIA, VA 22314

EXAMINER
MEINECKE DIAZ, SUSANNA M

ART UNIT	PAPER NUMBER
3623	

DATE MAILED: 10/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/556,303	Applicant(s) RUVOLO ET AL.
	Examiner Susanna M. Diaz	Art Unit 3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _18 August 2004_.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _23-39_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _23-39_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some *   c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

1.   This Final Office action is responsive to Applicant's response filed August 18,

2004.

No claims have been amended.

Claims 23-39 are pending.

Response to Arguments

2.   Applicant's arguments filed August 18, 2004 have been fully considered but they

are not persuasive.

Applicant argues:

> ...Perlman does not describe or suggest the use of an
> electronic calendar event matching system. Furthermore,
> Perlman does not disclose an electronic calendaring system
> with time-based matching of activities. In fact, Perlman
> teaches away from the present invention by describing a
> real-time matching system with no consideration of future
> calendar events, or time periods. Perlman has no use for
> calendar events as all matching is performed for users that
> are simultaneously online at the same time. As logging-in is
> a requirement for Perlman, the use of Perlman with a
> calendar matching system as described in the present
> invention would be inoperative and would not achieve the
> stated goal of event matching. More specifically, Perlman
> fails to disclose or anticipate an electronic calendaring
> system that uses a match server comprising a match engine
> that automatically performs a search to match calendar
> events of two entities during a specific period of time and
> having specific criteria, requirements, and attributes. (Pages
> 7-8 of Applicant's response)

As explained in the art rejection, Perlman teaches that users who currently want

to play the same game, live within the same area code, and possess the same skill level

may be matched together (col. 11, lines 11-43). The fact that Perlman's users want to play a video game in real-time is indicative of a time period. More specifically, once a user enters a request to play a particular video game, the implicit time period for playing that game is "now" or "in the near future." Nowhere in the claims is it expressly recited that "time periods" are "future calendar events," as asserted by Applicant. Additionally, the term "future" is relative. Playing a game several minutes after a user logs in is indicative of playing the game at a future time period relative to the instant when the user actually logged in. There is also an embodiment of Perlman's invention in which, if a match is not currently available, the match requirements remain in the system until a specified time out period expires (see col. 17, line 53 through col. 18, line 5). Clearly, Perlman's invention maintains a record of a given user's event requirements (i.e., game match requirements) at least until the end of an event time period (e.g., a specific time-out interval). In other words, as far as Perlman's system is concerned, the user is effectively available to play with an adequate game match at least as long as the match attempt has not timed out. Furthermore, the fact that Perlman's server retains such match requirement information at least long enough to find a match or time out after a specified interval is indicative of the fact that a search to match calendar events of two entities during a specific period of time and having specific criteria, requirements, and attributes is performed. Otherwise, Perlman's system would either randomly match up users with differing game requirements or not perform any matching at all. Instead, Perlman's server completes enough assessment of game requirements to appropriately

match users and even make suggestions (e.g., to broaden matching criteria) when a match is not easily found (col. 17, lines 47-52).

The Examiner would also like to point out that Applicant's use of the term "calendar" is very broad. Calendars are understood as comprising an arrangement of dates; however, the claims do not recite specific details regarding how the recited calendar is to be structured. Therefore, the fact that Perlman's users log in to play a game at the present time or in the near future (i.e., before a time out interval ends) normally implies that the users desire to play a game on the current date, which is broadly, yet reasonably interpreted as a calendar event function (i.e., an event associated with a particular date). Again, the claimed invention does not recite specific details regarding the structural arrangement of the calendar nor how the calendar elements are searched and matched; therefore, the claimed invention is still anticipated by Perlman's game match requirements which are stored long enough, albeit in temporary storage, to find a match or time out if no match is found after various attempts. Further, the game matching criteria specified by Perlman's users exemplify calendar entries.

Applicant argues that Perlman does not teach a "timer module" because the "timer module of dependent claim 24 is used to schedule matching searches on a regular interval for calendar entries" (page 9 of Applicant's response). However, claim 24 does not explain what a "timer module" is. As a matter of fact, there is no expressly recited functionality associated with the timer module. Claim 24 recites that the system "comprises a timer module and said match engine searches for matching events

according to a schedule of said timer module." The timer module does not actively

perform any functions. The match engine searches for matching events "according to a

schedule of said timer module," but the claims never expressly recite that the timer

module creates a schedule nor the details of how such schedule creation is performed.

The fact that Perlman's invention is timed to begin performing matches whenever a user

logs in to request a game match (col. 10, line 1 through col. 11, line 49) exemplifies a

"timer module," as broadly claimed.

Applicant argues that "Perlman does not notify entities of a match via an

electronic calendar application as described in claim 25." (Page 10 of Applicant's

response) Again, as discussed above, the claims do not expressly recite the details of

how the calendar or any related application is structured. Perlman's system operates

on the premise of an implied date and time during which one wishes to play a game

(e.g., today within the next few minutes); therefore, Perlman's server can be said to

utilize an electronic calendar application. Once a match is made, each matched entity

is notified of sufficient information to begin playing the game (see at least col. 11, lines

41-43).

Regarding claims 26 and 27, Applicant argues that "Perlman does not discuss

the use of categories not does it describes at least one of personal matching, job

qualifications, meetings, and activities." (Page 10 of Applicant's response) A category is

merely a classification of collected items. Users specify which video games they would

like to play, which is clearly indicative of a category. Furthermore, participating in multi-

player video games is not only exemplifying of a meeting, but of an activity as well.

As per claims 28 and 29, Applicant argues that "commerce activity, items for purchase, and favorable prices or rates (among others mentioned in the claims) are not disclosed in Perlman. The lines notes by the Examiner…describe the problems with the cost of telephone calls and charges in the prior art." (Page 10 of Applicant's response) First, Applicant's list of items that are allegedly not disclosed in Perlman are recited in the alternative; therefore, Perlman need only teach one of the recited items in order to anticipate the claimed invention. As explained in the art rejection addressing claim 28, multi-player video game services are offered (col. 11, lines 11-43), thereby addressing at least the recited categories of "service desired" and "service offered." As per claim 29, the fact that users can select to pay business or off-hour rates by logging in to play a game either during business hours or off-hours, respectively (col. 9, lines 15-23) signifies that the users have the opportunity to log in to play a game when connection rates are cheapest, i.e., most favorable.

Regarding claim 38, Applicant argues, "The Examiner has incorrectly correlated the users of Perlman being matched (while logged-in) with the deletion of an event…However, in the present invention, the deletion of an event match is performed by a user selecting a calendar event and removing it from a calendar schedule." (Pages 10-11 of Applicant's response) Again, the claimed invention does not specify any details regarding how the recited calendar is to be structured. Perlman's game matching system based on various users' current desire to play a particular game broadly reads on matching calendar events. Once a user logs off after participating in a matched game, his/her game match requirements are effectively deleted. Until the

claimed invention further defines the details of its calendar and related elements over

those of Perlman, the Examiner maintains that Perlman anticipates the recited calendar

and related elements, as currently and broadly recited.

Applicant's arguments are not persuasive; therefore, the rejection is maintained.

Claim Rejections - 35 USC § 102

3.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4.   Claims 23-39 are rejected under 35 U.S.C. 102(b) as being anticipated by

Perlman (U.S. Patent No. 5,558,339).

Perlman discloses an electronic calendar event matching system, said system

comprising:

[Claim 23]   a calendar store (col. 11, lines 11-37 – The server stores user preference

information at least as long as the user is logged in);

a match server operatively connected to said calendar store by an electronic

calendar application (col. 11, lines 11-37 – Users are matched up by game-related

preferences), said match server comprising:

a request handler operatively connected to an event handler, said request

handler routing requests for calendar event functions to said event handler, said event

handler allowing for the registration, modification, or deletion of an event (col. 11, lines 11-37);

an event repository, said event repository cooperating with said event handler to store and update calendar event functions (col. 11, lines 11-37 – The server stores user preference information at least as long as the user is logged in);

a response handler operatively notifying a requesting first entity that said calendar event has been registered, modified, or deleted (col. 11, lines 41-43 – Upon notifying a user that a match for him/her has been found, the user is inherently notified of results regarding the registration of his/her game preferences), and

a match engine performing a search of said event repository to locate a match for registered events of said first entity with a registered event of at least one second entity, said match fulfilling the period of time, event criteria, minimum matching requirements, and attributes of an activity or an entity (col. 11, lines 11-43 – Users who currently want to play the same game, live within the same area code, and possess the same skill level may be matched together);

[Claim 24]   a timer module and said match engine searches for matching events according to a schedule of said timer module (col. 10, line 1 through col. 11, line 49 -- Perlman's invention is timed to begin performing matches whenever a user logs in to request a game match);

[Claim 25]   wherein upon location of a match of a calendar event, said response handler notifies said first entity and said second entity via said electronic calendar application (col. 11, lines 41-43);

[Claim 26]   wherein said calendar event functions comprise categories (col. 11, lines

11-12 – The video games are part of a "video game" category and each specific type of

video game can be viewed as a category unto itself);

[Claim 27]   wherein said categories comprise at least one of: personal matching, job

positions, job qualifications, meetings, and activities (col. 11, lines 11-43);

[Claim 28]   wherein said categories comprise any of a commerce activity, service

desired, service offered, item for sale, item desired for purchase, request for quote,

delivery of pickup of an item or person(s), replenishment of supplies, or the reservation

of the use of a facility, place, vehicle or object (col. 11, lines 11-43 – Multi-player video

game services are offered);

[Claim 29]   wherein a multiplicity of times for a commerce activity are available at

variable prices or rates and which the most favorable price or rate is selected (col. 9,

lines 15-23 – Users can select to pay business or off-hour rates by logging in to play a

game either during business hours or off-hours, respectively);

[Claim 30]   wherein said system may be implemented locally or remotely on one or

more computer-based systems, across networks or existing communication mediums

(col. 10, lines 18-35);

[Claim 31]   wherein said across networks element comprises any of LANs, WANs,

cellular, Internet or Web based networks (col. 10, lines 18-35).

[Claims 32-39]   Claims 32-39 recite limitations already addressed by the rejection

of claims 23-31 above; therefore, the same rejection applies.

Regarding claims 32 and 39, matching occurs until a sufficient number of users has been identified. Once all suitable users have been matched to play a game, it is understood that the users are no longer in search of a match. These users are connected to one another to play the requested game and they are charged accordingly. Users are moved from one status to another as they are matched and are later monitored for connection time charges, thereby indicating that the users' requests to play a game are effectively moved from an event repository to a match repository. In other words, while a user is still in search of a match, it can be interpreted that his/her request is in an event repository. However, once the user finds his/her match(es), the user is removed from the event repository since he/she is no longer in search of a match(es). Successful matches are assigned a unique identification code and details of the match and resulting game statistics are stored (col. 11, lines 41-49); therefore, it is understood that specific user and related game statistics are stored in a separate repository.

Furthermore, as per claim 38, Perlman's users can only be matched as long as they are logged in. Once they log off, they effectively delete any current event matches.

Conclusion

5.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

6.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Susanna M. Diaz whose telephone number is (703) 305-

1337. The examiner can normally be reached on Monday-Friday, 9 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Tariq Hafiz can be reached on (703) 305-9643.

Any inquiry of a general nature or relating to the status of this application or

proceeding should be directed to the Receptionist whose telephone number is

(703)308-1113.

Any response to this action should be mailed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

or faxed to:

(703)305-7687   [Official communications; including
                        After Final communications labeled
                        "Box AF"]

(703)746-7048   [Informal/Draft communications, labeled
                        "PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 22202, 7th floor receptionist.

Susanna M. Diaz
Primary Examiner
Art Unit 3623
October 19, 2004